

relied on as teaching harvesting, threshing and retting the plants.

Nothing in the combination of the references teaches or suggests the claimed invention which relates to a method of manufacturing fibre mat comprising harvesting and threshing plants, retting stems of the plants, pretreating the plants by shortening and separating the plant stems thereby forming a fibre mass of vegetable fibres, forming a mat with randomly oriented fibres by a dry forming process, forming inter-fibre bonds between the fibres for fixing the mat with the bonded fibres. Therefore, the references cannot render obvious any of the present claims.

The Board, in Ex parte Levengood, 28 USPQ2d 1300, 1301 (Board of App. and Inter. 1993), observed:

"The only suggestion for the examiner's combination of the isolated teachings of the applied references improperly stems from appellant's disclosure and not from the applied prior art. In re Ehrreich, 200 USPQ 504 (CCPA 1979). At best, the examiner's comments regarding obviousness amount to an assertion that one of ordinary skill in the art would have been able to arrive at the appellant's invention because he had the necessary skills to carry out the requisite... steps. This is an inappropriate standard for obviousness."

The above is true for the present case.

Clarke relates to boric acid treatment of conventional articles formed of high pressure consolidation on air-laid web to thereby form a resultant flame-retardant additive laden article.

Young (patent from 1915) relates to a traditional treatment of hemp and has nothing to do with a fiber mat. The Examiner uses the present invention as a guide to pick and choose elements

from existing references merely to negate the claimed invention without providing substantiating evidence that "the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which [the invention] pertains."

"It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992), quoting from In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). "This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." Id. quoting from In re Fine, 5 USPQ2d 1600 (CAFC, 1988).

The Examiner has not presented a prima facie case of obviousness. There is a disconnect between the combined teachings of the references and the claimed features, most of which the Examiner admits are missing in the references. There is no basis for dismissing the claimed features, without substantiating evidence, as being obvious. Also, there is no showing as to why Clarke would provide a motivation for one of ordinary skill in the art to adapt the Young operation lacking any motivation or teaching within the references.

Obviousness is tested by what the combined teachings of the references would have suggested to those of ordinary skill in the art. It cannot be established by combining the teachings of the

prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Teachings of references can be combined only if there is some suggestion or incentive to do so. In re Fine, 5 USPQ2d 1596, 1599 (CAFC, 1988).

Claims 29 and 30 are patentable over Clarke, Young, Gould (US 4,997,488) or Mita (US 4,851,082).

As pointed out above, Clarke and Young do not teach or suggest the claimed invention. Therefore, any further combination with Gould and Mita will also lead away from the present claims.

Claims 12-35 are patentable over Young (US 1,146,987) and any one of Desverschere (US 4,106,163), Clarke (US 4,404,250), WO 98/01611, and Garrett (US 5,021,529).

As pointed out above, Clarke and Young do not teach or suggest the claimed invention. Therefore, the combination of Young with Clarke will also lead away from the present claims.

Young, which relates to hemp treatment and not fiber mats, does not teach nor suggest the claimed invention. Therefore, any further combination of Young with Desverschere, WO 98/01611 and Garrett will also lead away.

The bulk of the Examiner's rejections relies on the claimed features being either "well known in the art" or being "conventional in the art." If that is true then the Examiner should have numerous references to substantiate such evidence.

When [the Board] relies on "what they assert to be general knowledge to negate patentability, that knowledge must be

articulated and placed on the record. ... The board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies." In re Lee, 61 USPQ2d 1430, 1435 (Fed. Cir. 2002).

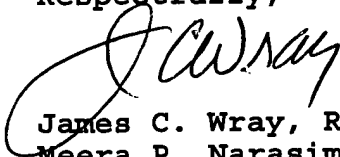
None of the cited references provides any evidence and, therefore, the Examiner makes the blanket rejections on features being "well known" without citing pertinent references that actually teach or suggest the claimed features. However, such a holding contradicts the Federal Circuit's mandate about evidentiary requirements for claim rejections.

The Federal Circuit has held that the patent office is obligated to make necessary findings and to provide an administrative record showing the evidence on which the findings are based, accompanied by the agency's reasoning in reaching its conclusion. In re Zurko, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). The decision "must be justified within the four corners of the record." In re Gartside, 53 USPQ2d 1769, 1774 (Fed. Cir. 2000). The Examiner has neither made the necessary findings nor provided any reasoning for the arbitrary conclusion of obviousness based on an admission that the references do not teach the claimed features.

Nothing in the references, either singly or in combination, teaches or suggests the claimed features. Therefore, the references cannot anticipate nor render obvious the present invention as claimed.

Since Applicant has presented a novel, unique and non-obvious invention, reconsideration and allowance are respectfully requested.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Wray", written over the typed name.

James C. Wray, Reg. No. 22,693
Meera P. Narasimhan, Reg. No. 40,252
1493 Chain Bridge Road, Suite 300
McLean, Virginia 22101
Tel: (703) 442-4800
Fax: (703) 448-7397

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